

JUL 21 2006

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JORGE MARTINEZ-ALVARADO, a.k.a.
Saul Sandoval Lopez,

Defendant - Appellant.

No. 05-50886

D.C. No. CR-05-00056-DSF-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, Presiding

Submitted July 17, 2006**

Before: B. FLETCHER, HAWKINS and THOMAS, Circuit Judges.

A review of the record and the opening brief indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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standard). The Supreme Court's decision in *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), remains binding on this court until the Supreme Court overrules it. *See United States v. Weiland*, 420 F.3d 1062, 1079 n.16 (9th Cir. 2005) (noting that this court remains bound by the Supreme Court's holding in *Almendarez-Torres* that a district court judge may enhance a sentence on the basis of prior convictions, even if the fact of those convictions was not found by a jury beyond a reasonable doubt). Further, we upheld the identical condition of supervised release challenged here in *United States v. Rodriguez-Rodriguez*, 441 F.3d 767 (9th Cir. 2006).

Accordingly, we grant the government's motion for summary affirmance of this appeal.

AFFIRMED.